

ARKANSAS DEPARTMENT OF HUMAN SERVICES

Policy Type	Subject of Policy	Policy No.
Administrative	Employee Discipline	1084

I. POLICY

The rules of the Department of Human Services (DHS) with regard to disciplinary measures are as follows:

Discipline applied by supervisors should be aimed at improving employee conduct. Conduct is defined as actions or lack of actions by employees related to work rules, policies, procedures, office mission, or safety.

Nothing in these rules and regulations shall alter the employment-at-will relationship between the employees and DHS. Any agency error that is trivial, formal, or merely academic and does not prejudice the substantive rights of an affected party will be deemed harmless error and shall not be grounds for overturning the agency decision.

II. SUBSTANTIVE RULES

A. Types of discipline - The following levels of discipline may be applied:

1. Written warning recorded in the employee's personnel file.
2. Suspensions without pay or demotion. (For exempt employees under the Fair Labor Standards Act, a ten-day minimum suspension is required.)
3. Termination.

Note: Demotion may be used as an alternative to suspension or termination or in combination with suspension.

B. Impact on future discipline - For purposes of progressive discipline, written warnings will be considered for 24 months after the action was documented. Suspensions and demotions will be counted for progressive discipline purposes for a period of 48 months after the action was documented.

C. Point accumulation - Employees are also subject to discipline for the accumulation of disciplinary points. The accrual of points will be determined as follows:

- Written Warning = 3 points
- Suspension = 6 points
- Demotion = 8 points

Points for each disciplinary action will be counted for one year after the disciplinary action was documented on a Form DHS-1173, Notice of Disciplinary Action.

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Any employee who accrues 13 or more disciplinary points within a 12-month period will be terminated.

III. PROCEDURAL RULES

- A. When supervisors become aware of possible conduct violations, they should take steps to gather any information not already known to the supervisor that is necessary to decide if discipline is necessary and what level of discipline is appropriate.
- B. Temporary Removal from Duty Assignment Pending Investigation
 - 1. Any employee whose alleged actions or behavior have the potential to be an immediate or direct threat to public health or safety or might threaten the safety of a child, client, or co-worker, or which might impede an investigation shall be temporarily removed from his or her duty assignment pending a review of the allegations by the employee's Division Director or designee. This action shall not be construed as an indication of wrongdoing by the removed employee, but is imposed to allow adequate time to conduct an investigation.
 - 2. The Division Director or designee shall determine the length of time during which the employee will be temporarily removed from duty and shall arrange for the employee to temporarily assume other duties not involving direct contact with children or clients. A change of work location may also be made, if appropriate under the circumstances. If circumstances require that the employee is to be sent home, the employee will be placed on call, with pay, during normal work hours, and be immediately available to participate in the investigation.
- C. Once the supervisor has gathered enough information to determine that a disciplinable act has occurred the supervisor should determine the appropriate level of discipline. If the decision to discipline results in suspension without pay or termination, the effective date of such action will be the date the decision is made, and will not be backdated to the date the employee was removed from his or her duty assignment pending investigation.
- D. To determine the appropriate level of discipline the supervisor should consider the following factors:
 - 1. Whether the employee knew or should have known that the behavior could result in discipline. Laws, written departmental, divisional and institutional policies, work practices, memos, and posted notices shall be considered proof that an employee knew or should have known any matters discussed in the document and that discipline could result from disobeying any directives contained in the document or reasonably implied by its contents.

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2. Whether a reasonable employee in similar circumstances would realize the behavior would be inappropriate or improper.
 3. Whether the behavior has disrupted work or interfered with services to customers.
 4. Whether the behavior has resulted in an increased risk of legal liability by the Department and the perceived seriousness of the risk.
 5. Whether the behavior endangered the safety of the employee, co-workers or customers and the level of risk involved. Endangerment is presumed if the behavior violates a safety law or rule.
 6. Whether the behavior was intentional in nature.
 7. Whether the employee has a reasonable explanation for his or her behavior or presents other mitigating circumstances.
 8. The employee's work history.
 9. Any other factors the supervisor considers relevant.
- E. Some Departmental or Divisional policies may set a specific level of discipline for certain offenses, if so the recommended level of discipline must be considered as the minimum discipline unless mitigating circumstances can be documented.
- F. The employee subject to disciplinary action should be given an opportunity to suggest in writing any other factors he or she would like the supervisor to consider before taking disciplinary action. After considering the above factors the supervisor should document his or her findings and select the level of discipline that equates to the seriousness of the offense. The DHS 2813, Disciplinary Investigation Checklist should be completed if the supervisor is considering termination.
- G. The discipline should be applied immediately, consistently and impartially. The employee must be warned of the consequences of repeated offenses in writing. After an appropriate initial level of discipline has been selected, the principles of progressive discipline should be followed for subsequent offenses. (i.e., the next level of discipline should be applied for the next substantially similar offense and continue sequentially thereafter, unless aggravating or mitigating circumstances can be demonstrated for the subsequent offenses.) Employees must be notified of the disciplinary action using Form DHS-1173. If the employee refuses to sign the DHS-1173 another employee should act as witness and it should be documented in writing.

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- H. If the severity of the offense, the frequency of unrelated offenses, the employee's overall work record, and other relevant factors warrant termination, the employee will not be eligible for re-employment for a period of two (2) years from the date of discharge. In cases of extreme violations of conduct, the employee will not be eligible for re-employment with DHS.

IV. CONFLICTING POLICIES SUPERCEDED

These rules supercede DHS Policy 1084, Employee Discipline, dated September 8, 1998, and any existing policies or specific sections of existing policies that conflict with the terms of this policy.

V. DEPARTMENT CONTACT

Any questions concerning DHS Policy Number 1084 should be directed to:

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APPROVED:

Date

DHS Director